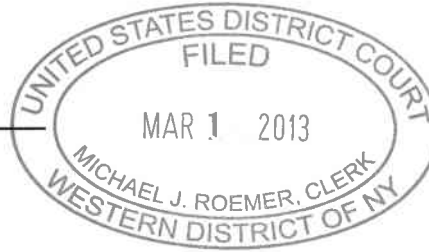


UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



-PS-O-

RICHARD ISASI,

Plaintiff,

-v-

07-CV-0665F

ORDER

FEDERAL BUREAU OF INVESTIGATION,

Defendant.

Plaintiff, currently an inmate at the Southport Correctional Facility, was denied permission to proceed in forma pauperis in this matter because the Court had determined that he had, in the past, garnered "three strikes" pursuant to 28 U.S.C. § 1915(g) and his complaint did not establish that he was in "imminent danger of serious physical injury." *Id.* The Court therefore directed plaintiff to pay the \$350.00 filing fee by a certain date and notified him that if he did not pay the full filing fee by that date his complaint would be dismissed. (Docket No. 8.) Plaintiff did not pay the fee and a Judgment was entered dismissing this action. (Docket No. 9.)

However, when plaintiff filed his Prison Authorization (Docket No. 5), authorizing the correctional facility at which he was incarcerated at the time to withdraw and over time encumber funds from plaintiff's inmate trust account in order to pay the filing fee, see 28 U.S.C. § 1915(b)(1)-(4), the Clerk of the Court, pursuant to its general procedures, forwarded a copy of said Authorization to the correctional facility and directed it to withdraw and encumber the funds from

plaintiff's inmate trust account. This was done prior to the time the Court had denied plaintiff's permission to proceed in forma pauperis but the Clerk of the Court did not later--i.e., after the Court had denied plaintiff permission to proceed in forma pauperis--inform the correctional facility to cancel the Authorization and restore any funds already withdrawn and/or encumbered from plaintiff's inmate trust account pursuant to the Authorization specific to this action.

On February 13, 2013, the Clerk of the Court received and receipted \$350.00 for this action from the Southport Correctional Facility. Because plaintiff was denied permission to proceed in forma pauperis, the Court should have informed the correctional facility at that time not to withdraw and/or encumber any funds from plaintiff's inmate trust account and advised it to return any monies already withdraw and/or encumbered from said account.

Accordingly, the Clerk of the Court is directed to forward to the Southport Correctional Facility the \$350.00 it received in this action and the Southport Correctional Facility is directed to deposit said funds directly into plaintiff's inmate trust account upon receipt.

The Clerk of the Court is directed to forward a copy of the Order to the Superintendent of the Southport Correctional Facility, Box 2000, Pine City, New York 14871-2000.

SO ORDERED.

S/ Michael A. Telesca

MICHAEL A. TELESCA
United States District Judge

Dated: February 27, 2013
Rochester, New York